

ASSEMBLY BILL

No. 2405

Introduced by Assembly Member Ammiano

February 21, 2014

An act to amend Section 7060.6 of, and to add Section 7060.8 to, the Government Code, relating to landlord tenant.

LEGISLATIVE COUNSEL'S DIGEST

AB 2405, as introduced, Ammiano. Landlord tenant: Ellis Act.

(1) Under the Ellis Act, public entities generally are prohibited from adopting any statute, ordinance, or regulation, or taking any administrative action, to compel the owner of residential real property to offer or to continue to offer accommodations in the property for rent or lease. The act authorizes, if an owner seeks to displace a tenant or lessee from accommodations withdrawn from rent or lease by an unlawful detainer proceeding, the tenant or lessee to assert by way of defense that the owner has not complied with the act, or statutes, ordinances, or regulations of public entities adopted to implement the act.

This bill would require, if an owner seeks to displace a tenant or lessee from accommodations withdrawn pursuant to the act solely on the basis of this withdrawal, the case to civil action other than a civil action for unlawful detainer in which the tenant or lessee may assert the above-described defenses.

(2) Existing law authorizes a court clerk to allow access to limited civil case records filed in unlawful detainer proceedings to specified persons and, after 60 days after the complaint has been filed, to any other person, with a specified exception.

This bill would prohibit the clerk of the court from allowing access to court records filed in the above-described civil action to displace a tenant or lessee from withdrawn accommodations, except as specified.

(3) The Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element that includes an assessment of housing needs.

This bill would, if a county or city and county fails to identify or make available adequate sites to accommodate its portion of the regional housing need allocated to specified income levels, authorize the county or city and county to compel the owner of a residential real property to offer, or continue to offer, accommodations in the property for rent or lease by adoption of a resolution or by a majority vote of the electors within the county.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares:
- 2 (a) Legal issues in an Ellis Act eviction proceeding are complex,
- 3 unlike unlawful detainer proceedings for nonpayment of rent and
- 4 other common evictions.
- 5 (b) Briefs in an Ellis Act eviction proceeding are often
- 6 extensive. Drafting or responding to pleadings on an unlawful
- 7 detainer timeline is a challenge. Exhibits are extensive in an Ellis
- 8 Act eviction proceeding and need to be thoroughly reviewed to
- 9 determine whether “strict compliance” has been achieved.
- 10 (c) Owners that invoke the Ellis Act are using a draconian
- 11 remedy – removal from rental use – and careful court review is
- 12 warranted. Unlike a typical eviction for nonpayment of rent, which
- 13 forces a tenant out, but doesn’t otherwise restrict the unit, an Ellis
- 14 Act eviction results in a deed restriction on the unit, removing it
- 15 from the rental market.
- 16 (d) The detriment to owners from a longer civil action to recover
- 17 rental property is fundamentally different. In an Ellis Act eviction
- 18 proceeding, the owner does not allege damage or misconduct by
- 19 a tenant that would otherwise require a prompt eviction.
- 20 (e) It is very difficult for tenants to find representation in part
- 21 because Ellis Act eviction proceedings are complex and attorneys

are required to drop everything to deal with tight timelines. Tenants cannot be expected to competently represent themselves in Ellis Act eviction proceedings. Converting these proceedings to be civil actions other than those for unlawful detainer could make it easier to get representation or low income tenants.

(f) To the extent that a civil action is brought to evict a tenant solely because the property owner wants to remove the residential unit from the rental market and the tenant did not engage in acts that would constitute a breach of the lease, the interest of the tenant in protecting his or her reputation as a responsible tenant outweighs the public interest in the outcome of the proceeding to evict the tenant.

SEC. 2. Section 7060.6 of the Government Code is amended to read:

7060.6. (a) If an owner seeks to displace a tenant or lessee from accommodations withdrawn from rent or lease pursuant to this chapter ~~by an unlawful detainer proceeding~~, *solely on the basis of this withdrawal, the case shall be a civil action, other than a civil action for unlawful detainer; in which the tenant or lessee may appear and answer or demur pursuant to Section 1170 of the Code of Civil Procedure and may assert by way of defense that the owner has not complied with the applicable provisions of this chapter, or statutes, ordinances, or regulations of public entities adopted to implement this chapter, as authorized by this chapter.*

(b) *The clerk of the court shall not allow access to court records filed in a civil action described in subdivision (a), including the court file, index, and register of actions, except as follows:*

(1) *To a party to the action, including a party's attorney.*

(2) *To any person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment or unit number, if any.*

(3) *To a resident of the premises who provides the clerk with the name of one of the parties or the case number and shows proof of residency.*

(4) (A) *To any person by order of the court, which may be granted ex parte, on a showing of good cause.*

(B) *For purposes of this paragraph, "good cause" includes, but is not limited to, the gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code. It is the intent of*

1 *the Legislature that a simple procedure be established to request*
2 *the ex parte order described in subparagraph (A).*

3 SEC. 3. Section 7060.8 is added to the Government Code, to
4 read:

5 7060.8. Notwithstanding Section 7060, if a county or city and
6 county fails to identify or make available adequate sites to
7 accommodate its portion of the regional housing need allocated
8 to low-income and moderate income levels pursuant to Section
9 65584, the board of supervisors, by the adoption of a resolution
10 or by a majority vote of the electors within the county, may compel
11 the owner of any residential real property to offer, or continue to
12 offer, accommodations in the property for rent or lease until the
13 county or city and county meets its portion of the regional housing
14 need.